

AMENDED IN ASSEMBLY JUNE 4, 2001

AMENDED IN ASSEMBLY APRIL 19, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1449

Introduced by Assembly Member Keeley

February 23, 2001

An act to amend Section 17415 of, and to add Sections 17550 and 17552 to, the Family Code, and to amend Section 903 of the Welfare and Institutions Code, relating to children.

LEGISLATIVE COUNSEL'S DIGEST

AB 1449, as amended, Keeley. ~~CalWORKs: debt compromise: child~~ Child support.

Existing law requires the local child support agency in each county to enforce child support orders and to collect arrearages, as specified.

This bill would ~~authorize~~ *require* the Department of Child Support Services, *by October 1, 2002*, to ~~establish~~ *promulgate specified* regulations by which the local child support agency may compromise an obligor's liability for public assistance debt in cases where the parent separated from or deserted a child who, ~~as a result thereof, consequently~~ became the recipient of aid under the CalWORKs program, if specified conditions are met, and the department determines that compromise is necessary for the child's support. The bill would define "guardian" and "relative caregiver" for these purposes. The bill would also require the State Department of Social Services, *by October 1, 2002*, to ~~establish~~ *promulgate specified* regulations by which the county child welfare department, in case of separation or desertion of a parent or parents from

a child resulting in aid, as specified, would determine whether it is in the best interests of the child to have his or her case referred to the local child support agency for child support services, as specified. *The bill would further require the local child support agency to consult with the county child welfare department prior to compromising an obligor parent's liability for debt incurred for AFDC-FC payment provided to a child.* Because this bill would impose new duties on local officials, it would create a state-mandated local program.

The bill would make other conforming changes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17415 of the Family Code is amended
2 to read:
3 17415. (a) It shall be the duty of the county welfare
4 department to refer all cases ~~where~~ *in which* a parent is absent from
5 the home, or ~~where~~ the parents are unmarried and parentage has
6 not been established by the completion and filing of a voluntary
7 declaration of paternity pursuant to Section 7573 or a court of
8 competent jurisdiction, to the local child support agency
9 immediately at the time the application for public assistance,
10 including Medi-Cal benefits, or certificate of eligibility, is signed
11 by the applicant or recipient, except as provided in Section 17552
12 of this code and Section 11477.04 of the Welfare and Institutions
13 Code. If an applicant is found to be ineligible, the applicant shall
14 be notified in writing that the referral of the case to the local child
15 support agency may be terminated at the applicant's request. The



1 county welfare department shall cooperate with the local child
2 support agency and shall make available to ~~him or her~~ all pertinent
3 information as provided in Section 17505.

4 (b) Upon referral from the county welfare department, the local
5 child support agency shall investigate the question of nonsupport
6 or paternity and shall take all steps necessary to obtain child
7 support for the needy child, enforce spousal support as part of the
8 state plan under Section 17604, and determine paternity in the case
9 of a child born out of wedlock. Upon the advice of the county
10 welfare department that a child is being considered for adoption,
11 the local child support agency shall delay the investigation and
12 other actions with respect to the case until advised that the adoption
13 is no longer under consideration. The granting of public assistance
14 or Medi-Cal benefits to an applicant shall not be delayed or
15 contingent upon investigation by the local child support agency.

16 (c) In cases where Medi-Cal benefits are the only assistance
17 provided, the local child support agency shall provide child and
18 spousal support services unless the recipient of the services
19 notifies the local child support agency that only services related to
20 securing health insurance benefits are requested.

21 (d) Where a court order has been obtained, any contractual
22 agreement for support between the local child support agency or
23 the county welfare department and the noncustodial parent shall
24 be deemed null and void to the extent that it is not consistent with
25 the court order.

26 (e) Whenever a family which has been receiving public
27 assistance, including Medi-Cal, ceases to receive assistance,
28 including Medi-Cal, the local child support agency shall, to the
29 extent required by federal regulations, continue to enforce support
30 payments from the noncustodial parent until ~~such time as~~ the
31 individual on whose behalf the enforcement efforts are made sends
32 written notice to the local child support agency requesting that
33 enforcement services be discontinued.

34 (f) The local child support agency shall, where appropriate,
35 utilize reciprocal arrangements adopted with other states in
36 securing support from an absent parent. In individual cases where
37 utilization of reciprocal arrangements has proven ineffective, the
38 local child support agency may forward to the Attorney General
39 a request to utilize federal courts in order to obtain or enforce
40 orders for child or spousal support. If reasonable efforts to collect

1 amounts assigned pursuant to Section 11477 of the Welfare and
2 Institutions Code have failed, the local child support agency may
3 request that the case be forwarded to the Treasury Department for
4 collection in accordance with federal regulations. The Attorney
5 General, where appropriate, shall forward these requests to the
6 Secretary of Health and Human Services, or a designated
7 representative.

8 SEC. 2. Section 17550 is added to the Family Code, to read:

9 17550. (a) The Department of Child Support Services shall
10 establish regulations by which the local child support agency, in
11 any case of separation or desertion of a parent from a child that
12 results in aid under Chapter 2 (commencing with Section 11200)
13 of Part 3 of Division 9 of the Welfare and Institutions Code being
14 granted to the child, may compromise the obligor parent or
15 parents' liability for public assistance debt, including interest
16 thereon, owed to the state where the child for whom public
17 assistance was paid is residing with the obligor parent, and both of
18 the following conditions are met:

19 (1) The obligor parent establishes one of the following:

20 (A) The child has been adjudged a dependent of the court under
21 Section 300 of the Welfare and Institutions Code and the child has
22 been reunified with the obligor parent pursuant to a court order.

23 (B) The child received public assistance while living with a
24 guardian or relative caregiver who has returned the child to the
25 custody of the obligor parent.

26 (2) The local child support agency, pursuant to regulations set
27 forth by the department, has determined that the compromise is
28 necessary for the child's support.

29 (b) *Prior to compromising an obligor parent's liability for debt*
30 *incurred for AFDC-FC payments provided to a child pursuant to*
31 *Section 11400 of the Welfare and Institutions Code, the local child*
32 *support agency shall consult with the county child welfare*
33 *department.*

34 (c) Nothing in this section relieves an obligor, who has not been
35 reunified with his or her child, of any liability for public assistance
36 debt.

37 ~~(e)~~

38 (d) For the purposes of this section, the following definitions
39 apply:

(1) “Guardian” means the legal guardian of the child, who assumed care and control of the child while the child was in the guardian’s control, and who is not a biological or adoptive parent.

(2) “Relative caregiver” means a relative as defined in subdivision (c) of Section 11362 of the Welfare and Institutions Code, who assumed primary responsibility for the child while the child was in the relative’s care and control, and who is not a biological or adoptive parent.

~~(d)~~

(e) The department shall promulgate all necessary regulations pursuant to this section on or before ~~=====~~ *October 1, 2002*, including regulations that set forth guidelines to be used by the local child support agency when compromising public assistance debt.

SEC. 3. Section 17552 is added to the Family Code, to read:

17552. (a) The State Department of Social Services shall ~~establish~~ *promulgate* regulations by which the county child welfare department, in any case of separation or desertion of a parent or parents from a child that results in aid under Section 11400 of the Welfare and Institutions Code, shall determine whether it is in the best interests of the child to have ~~his or her~~ *the* case referred to the local child support agency for child support services. In making the determination, the department regulations shall provide the factors the county child welfare department shall consider, including:

(1) Whether the payment of support by the parent will pose a barrier to the proposed reunification, in that the payment of support will compromise the parent’s ability to meet the requirements of the parent’s reunification plan.

(2) Whether the payment of support by the parent will pose a barrier to the proposed reunification in that the payment of support will compromise the parent’s current or future ability to meet the financial needs of the child.

(b) The department regulations shall provide that, where the county child welfare department determines, ~~pursuant to this section,~~ that it is not in the best interests of the child to seek a support order against the parent, the county child welfare department shall refrain from referring the case to the local child support agency.

1 (c) The department regulations shall provide, where the county
2 child welfare department determines, ~~pursuant to this section~~, that
3 it is not in the child's best interest to have his or her case referred
4 to the local child support agency, the county child welfare
5 department shall review that determination following each court
6 hearing held under Section 361.5 of the Welfare and Institutions
7 Code, and shall refer the child's case to the local child support
8 agency upon a determination that, due to a change in the child's
9 circumstances, it is no longer contrary to the child's best interests
10 to have his or her case referred to the local child support agency.

11 (d) The State Department of Social Services shall promulgate
12 all necessary regulations pursuant to this section on or before ~~=====~~
13 *October 1, 2002*.

14 SEC. 4. Section 903 of the Welfare and Institutions Code is
15 amended to read:

16 903. (a) The father, mother, spouse, or other person liable for
17 the support of a minor, the estate of that person, and the estate of
18 the minor, shall be liable for the reasonable costs of support of the
19 minor while the minor is placed, or detained in, or committed to,
20 any institution or other place pursuant to Section 625 or pursuant
21 to an order of the juvenile court. However, a county shall not levy
22 charges for the costs of support of a minor detained pursuant to
23 Section 625 unless, at the detention hearing, the juvenile court
24 determines that detention of the minor should be continued, the
25 petition for the offense for which the minor is detained is
26 subsequently sustained, or the minor agrees to a program of
27 supervision pursuant to Section 654. The liability of these persons
28 and estates shall be a joint and several liability.

29 (b) The county shall limit the charges it seeks to impose to the
30 reasonable costs of support of the minor and shall exclude any
31 costs of incarceration, treatment, or supervision for the protection
32 of society and the minor and the rehabilitation of the minor. In the
33 event that court-ordered child support paid to the county pursuant
34 to subdivision (a) exceeds the amount of the costs authorized by
35 this subdivision and subdivision (a), the county shall either hold
36 the excess in trust for the minor's future needs pursuant to Section
37 302.52 of Title 45 of the Code of Federal Regulations or, with the
38 approval of the minor's caseworker or probation officer, pay the
39 excess directly to the minor.



1 (c) It is the intent of the Legislature in enacting this subdivision
 2 to protect the fiscal integrity of the county, to protect persons
 3 against whom the county seeks to impose liability from excessive
 4 charges, to ensure reasonable uniformity throughout the state in
 5 the level of liability being imposed, and to ensure that liability is
 6 imposed only on persons with the ability to pay. In evaluating a
 7 family's financial ability to pay under this section, the county shall
 8 take into consideration the family's income, the necessary
 9 obligations of the family, and the number of persons dependent
 10 upon this income. Except as provided in paragraphs (1), (2), (3),
 11 and (4), "costs of support" as used in this section means only
 12 actual costs incurred by the county for food and food preparation,
 13 clothing, personal supplies, and medical expenses, not to exceed
 14 a combined maximum cost of fifteen dollars (\$15) per day, except
 15 that:

16 (1) The maximum cost of fifteen dollars (\$15) per day shall be
 17 adjusted every third year beginning January 1, 1988, to reflect the
 18 percentage change in the calendar year annual average of the
 19 California Consumer Price Index, All Urban Consumers,
 20 published by the Department of Industrial Relations, for the
 21 three-year period.

22 (2) No cost for medical expenses shall be imposed by the
 23 county until the county has first exhausted any eligibility the minor
 24 may have under private insurance coverage, standard or medically
 25 indigent Medi-Cal coverage, and the Robert W. Crown California
 26 Children's Services Act (Article 2 (commencing with Section 248)
 27 of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code).

28 (3) In calculating the cost of medical expenses, the county shall
 29 not charge in excess of 100 percent of the AFDC fee-for-service
 30 average Medi-Cal payment for that county for that fiscal year as
 31 calculated by the State Department of Health Services; however,
 32 if a minor has extraordinary medical or dental costs that are not met
 33 under any of the coverages listed in paragraph (2), the county may
 34 impose these additional costs.

35 (4) For those placements of a minor subject to this section in
 36 which an AFDC-FC grant is made, the local child support agency
 37 shall, subject to Sections 17550 and 17552 of the Family Code,
 38 seek an order pursuant to Section 17400 of the Family Code and
 39 the statewide child support guideline in effect in Article 2
 40 (commencing with Section 4050) of Chapter 2 of Part 2 of

1 Division 9 of the Family Code. For purposes of determining the
2 correct amount of support of a minor subject to this section, the
3 rebuttable presumption set forth in Section 4057 of the Family
4 Code is applicable. *This paragraph shall be implemented*
5 *consistent with subdivision (a) of Section 17415 of the Family*
6 *Code.*

7 (d) Notwithstanding subdivision (a), the father, mother,
8 spouse, or other person liable for the support of the minor, the
9 estate of that person, or the estate of the minor, shall not be liable
10 for the costs described in this section if a petition to declare the
11 minor a dependent child of the court pursuant to Section 300 is
12 dismissed at or before the jurisdictional hearing.

13 (e) Notwithstanding subdivision (a), the father, mother,
14 spouse, or other person liable for the support of a minor shall not
15 be liable for the costs of support of that minor while the minor is
16 temporarily placed or detained in any institution or other place
17 pursuant to Section 625 or is committed to any institution or other
18 place pursuant to an order of the juvenile court, if the minor is
19 placed or detained because he or she is found by a court to have
20 committed a crime against that person. Nothing in this subdivision
21 shall be construed to extinguish a child support obligation between
22 private parties.

23 SEC. 5. Notwithstanding Section 17610 of the Government
24 Code, if the Commission on State Mandates determines that this
25 act contains costs mandated by the state, reimbursement to local
26 agencies and school districts for those costs shall be made pursuant
27 to Part 7 (commencing with Section 17500) of Division 4 of Title
28 2 of the Government Code. If the statewide cost of the claim for
29 reimbursement does not exceed one million dollars (\$1,000,000),
30 reimbursement shall be made from the State Mandates Claims
31 Fund.

